D.B.CIVIL WRIT PETITION No. 3165/2005
Aidan Ram v. Union of India & ors.

Date of order : 08.08.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Rajesh Chaudhary for the petitioner
Shri Vineet Kumar Mathur for the respondent nos. 1 to 4
Shri Rakesh Arora for respondent no.5

This writ petition is directed against the order of the Central Administrative Tribunal, Jodhpur Bench dated 12.4.2005 in OA no. 229/2004 dismissing the original application of the petitioner.

The petitioner had filed the application for quashing the selection of respondent no.5, Raghuveer Singh, on the post of gardener. The ground of challenge was that in terms of the advertisement only local candidates i.e. residents of district Barmer could be considered and Raghuveer Singh being resident of Jodhpur district was not eligible. The Tribunal took the view that the selection can not be confined to one district which would be violative of the Constitution and the respondent was therefore not disqualified from being considered for the post.

Case of the petitioner is founded on the fact that the vacancy was notified to the District Employment Exchange, Barmer

and in the requisition for publication of the advertisement in the newpaper *Dainik Bhaskar* it was stated that the advertisement should be published in the 'Barmer – Jaisalmer' page of the newspaper which, according to the petitioner, means that the selection was confined to Barmer/ Jaisalmer and not beyond. Reference was also made to the advertisement by which applications were invited from 'local' candidates possessing the requisite qualification.

It is true that as per advertisement notice applications were invited from only local candidates but it does not mean that candidates residing beyond the districts of Barmer/ Jaisalmer were precluded from applying. Article 16 of the Constitution which provides for equality of opportunity in matters of employment expressly forbids any kind of discrimination in employment or office under the State on ground only of place of birth or residence, among other things. Thus validity of selection of respondent no.5 has to be considered keeping in view the constitutional mandate and right of the candidates at large.

Counsel for the respondents relied on Kailash Chandra Sharma v. State of Rajasthan & ors, AIR 2002 SC 2877. The point for consideration in that case inter alia was the validity of a rule under

which candidates were entitled to weightage on the basis of residence. The rule had been held to be ultra vires by this Court and the Supreme Court affirmed the decision.

In the above premises, we find no error in the order of the Tribunal upholding the selection of respondent no.5 and rejecting the application of the petitioner.

The writ petition is dismissed.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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